

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**Amendment No. 1 to HB1391**

**Chumney  
Signature of Sponsor**

**AMEND Senate Bill No. 1668**

**House Bill No. 1391\***

By deleting SECTION 4 of the printed bill in its entirety, and by adding the following as a new SECTION 4:

SECTION 4. Tennessee Code Annotated, Section 36-5-103(f), is amended by deleting subdivision (1) and subdivision (6) in their entireties and by substituting instead the following and by re-numbering remaining subdivisions accordingly:

(1)

(A) Every three (3) years, upon request of the custodial or non-custodial parent, or any other caretaker, of the child, or, if there is an assignment of support pursuant to title 71, chapter 3, part 1, upon request of the department or upon request of the custodial or non-custodial parent, or any other caretaker, of the child, then, in any support order subject to enforcement under Title IV-D of the Social Security Act, the department shall review, and, if appropriate, adjust the order in accordance with child support guidelines established pursuant to § 36-5-101(e). If at the time of the review, there is a “significant variance”, as defined by department’s child support guidelines, between the current support order and the support order if adjusted based upon the obligor’s income, the department shall adjust the order. The department’s efforts to seek adjustment, and the court’s adjustment of the order, shall be in accordance with the guidelines

**Amendment No. 1 to HB1391**

**Chumney**  
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Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1668**

**House Bill No. 1391\***

and shall be made without a requirement for proof or showing of any other change in circumstances.

(B) In the case of a request for review that is made within the three (3) year cycle, the department shall review, and, if the requesting party demonstrates to the department that there has been a substantial change in circumstances, adjust the support order in accordance with the guidelines established pursuant to § 36-5-101(e). For purposes of this subsection, a “substantial change in circumstances” shall be a “significant variance”, as defined by the department’s child support guidelines, between the amount of the current order and the amount that would be ordered under the department’s child support guidelines based upon the current income of the obligor.

(C) The review and adjustment in subdivisions (1)(A) and (B) may be conducted by the court, or by the department by issuance of an administrative order by the department or its contractors.

AND FURTHER AMEND by deleting SECTION 15 of the printed bill in its entirety and by substituting instead the following:

SECTION 15. Tennessee Code Annotated, Section 36-5-101(a)(4), is amended by deleting subdivision (A) in its entirety and by substituting instead the following:

**Amendment No. 1 to HB1391**

**Chumney**  
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Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1668**

**House Bill No. 1391\***

(A) The order or decree of the court may provide that the payments for the support of such child or children shall be paid either to the clerk of the court or directly to the spouse, or other person awarded the custody of the child or children; provided, however,

(i) that the court shall order that all child or spousal support payments based upon an income assignment issued by the clerk be paid to the clerk of the court, except, as set forth in subdivision (A)(ii), for child or spousal support cases that are subject to the provisions for central collection and disbursement pursuant to § 36-5-116;

(ii) that in all Title IV-D child or spousal support cases in which payment of child or spousal support is to be made by income assignment, or otherwise, and in all cases where payments made by income assignment based upon support orders entered on or after January 1, 1994 that are not Title IV-D support cases but must be made to the central collection and disbursement unit as provided by § 36-5-116, and, except as may otherwise be allowed by § 36-5-501(a)(2)(B), the court shall only order that the support payments be made to the central collection and disbursement unit pursuant to § 36-5-116. No agreement by the parties in a parenting plan, either temporary or permanent, entered pursuant to the provisions of title 36, chapter 6, part 4, or any other agreement of the parties or order of the court, except as may otherwise be allowed by § 36-5-501(a)(2)(B), shall alter the requirements for

**Amendment No. 1 to HB1391**

**Chumney**  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1668**

**House Bill No. 1391\***

payment to the central collection and disbursement unit as required by § 36-5-116, and any provision of any parenting plan, agreement or court order providing for any other payment procedure contrary to the requirements of § 36-5-116, except as may otherwise be allowed by § 36-5-501(a)(2)(B), whether or not approved by the court, shall be void and of no effect. No credit shall be given by the court, the court clerk or the department of human services for child or spousal support payments required by the support order that are made in contravention of such requirements; provided, however, the department may make any necessary adjustments to the balances owed to account for changes in the Title IV-D or central collection and disbursement status of the support case.

AND FURTHER AMEND by adding the following as a new SECTION 16 to the printed bill and by re-numbering existing SECTIONS accordingly:

SECTION 16. Tennessee Code Annotated, Section 36-5-501(b)(5), is amended by adding the following language as a new subdivision (b)(5)(A), and by designating the existing language as subdivision (b)(5)(B):

(A) In all Title IV-D child or spousal support cases in which payment of such support is to be made by income assignment, and in all cases where payments made by income assignment based upon support orders entered on or after January 1, 1994 that are not Title IV-D support cases but must be made to the central collection and disbursement unit as provided by § 36-5-116, the court,

**Amendment No. 1 to HB1391**

**Chumney**  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1668**

**House Bill No. 1391\***

the clerk of court, or the department or its contractors shall only order that the support payments be made by income assignment to the central collection and disbursement unit pursuant to § 36-5-116. No agreement by the parties in a parenting plan, either temporary or permanent, entered pursuant to the provisions of title 36, chapter 6, part 4, or any other agreement of the parties or order of the court, except as may otherwise be allowed by § 36-5-501(a)(2)(B), shall alter the requirements for payment by income assignment to the central collection and disbursement unit as required by § 36-5-116, and any provision of any parenting plan, agreement or court order providing for any other payment procedure contrary to the requirements of § 36-5-116, whether or not approved by the court, except as may otherwise be allowed by § 36-5-501(a)(2)(B), shall be void and of no effect. No credit shall be given by the court, the court clerk or the department of human services for child or spousal support payments required by the support order that are made in contravention of such requirements; provided, however, the department may make any necessary adjustments to the balances owed to account for changes in the Title IV-D or central collection and disbursement status of the support case.

AND FURTHER AMEND by adding the following as a new SECTION 17 to the printed bill and by re-numbering existing SECTIONS accordingly:

SECTION 17. Tennessee Code Annotated, Section 36-5-901(b)(3)(C), is amended by adding the punctuation and language “,or in conjunction with or as an alternative” immediately following the language “In addition” in the first sentence.

**Amendment No. 1 to HB1391**

**Chumney  
Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1668**

**House Bill No. 1391\***

AND FURTHER AMEND by adding the following as a new SECTION 18 to the printed bill and by re-numbering existing SECTIONS accordingly:

SECTION 18. Tennessee Code Annotated, Section 36-5-901, is amended by adding the following sentence at the end of subdivision (a)(1):

The personal or real property, tangible or intangible, of the obligor that is subjected to the lien required by this part shall include all existing property at the time of the lien's perfection, or acquired thereafter, even if a prior order for overdue support or arrears only specifies a certain amount of overdue support or arrears that was owed by the obligor at the time of such order.

;and is further amended by deleting subdivision (a)(2) in its entirety and by substituting instead the following:

(2) "Overdue support" is defined, for purposes of this part, as any occasion on which the full amount of ordered support for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the child is living to the extent spousal support would be included for the purposes of 42 U.S.C. § 654(4), is not paid by the due date for arrears as defined in § 36-5-101(a)(5) unless an income assignment is in effect and the payer of income is paying pursuant to § 36-5-101(g). "Overdue support" shall include all amounts of support that are in arrears as defined in § 36-5-101(a)(5) and that remain unpaid by the obligor at the time the lien is perfected or which become due as arrears subsequent to the perfection of the lien.

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**Amendment No. 1 to HB1391**

**Chumney  
Signature of Sponsor**

**AMEND Senate Bill No. 1668**

**House Bill No. 1391\***

AND FURTHER AMEND by adding the following as a new SECTION 19 to the printed bill and by re-numbering existing sections accordingly:

SECTION 19. Tennessee Code Annotated, Section 36-6-406, is amended by adding the following as a new subsection (f):

(f)

(1) In all Title IV-D child or spousal support cases in which payment of support is to be made by income assignment, or otherwise, and in all cases where payments made by income assignment based upon support orders entered on or after January 1, 1994 that are not Title IV-D support cases but must be made to the central collection and disbursement unit as provided by § 36-5-116, and, except as may otherwise be allowed by § 36-5-501(a)(2)(B), the court shall only approve a temporary or permanent parenting plan involving the payment of support that complies with the requirements for central collection and disbursement as required by § 36-5-116. Prior to approval of a parenting plan in which payments are to be made directly to the spouse or the court clerk or to some other person or entity, there shall be filed with the plan presented to the court a written certification, under oath if filed by a party, or signed by the party's counsel, stating whether the case for which the plan is to be approved is a Title IV-D support case subject to enforcement by the department of human services or is otherwise subject to collection

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**Amendment No. 1 to HB1391**

**Chumney**  
**Signature of Sponsor**

**AMEND Senate Bill No. 1668****House Bill No. 1391\***

through the department's central collection and disbursement unit established by § 36-5-116.

(2) Any provision of any parenting plan, agreement or court order providing for any other payment procedure contrary to the requirements of § 36-5-116, except as may otherwise be allowed by § 36-5-501(a)(2)(B), whether or not approved by the court, shall be void and of no effect. No credit for support payments shall be given by the court, the court clerk or the department of human services for child or spousal support payments required by the support order that are made in contravention of such requirements; provided, however, the department may make any necessary adjustments to the balances owed to account for changes in the Title IV-D or central collection and disbursement status of the support case.

(g) Forms used by parties as parenting plans or adopted by the court for their use, shall conform to all substantive language requirements established by the administrative office of the courts at such time as parenting plan forms are promulgated and approved by that office.

AND FURTHER AMEND by adding the following as a new SECTION 20 to the printed bill and by re-numbering existing SECTIONS accordingly:

SECTION 20. Tennessee Code Annotated, Section 37-1-151(b)(5) is amended by deleting the language "parts 1-6".